

§ 58-33-26. General license requirements.

(a) No person shall act as or hold himself or herself out to be an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser unless duly licensed.

(b) No agent, broker, or limited representative shall make application for, procure, negotiate for, or place for others, any policies for any kinds of insurance as to which that person is not then qualified and duly licensed.

(c) Effective for new licenses issued before January 1, 2008, an agent or broker may be licensed for the following kinds of insurance:

- (1) Life and health insurance, meaning:
 - a. Life-insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.
 - b. Variable life and variable annuity products-insurance coverage provided under variable life insurance contracts and variable annuities.
 - c. Accident and health or sickness-insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.
- (2) Property and liability insurance, meaning:
 - a. Coverage for the direct or consequential loss or damage to property of every kind.
 - b. Coverage against legal liability, including that for death, injury, or disability or damage to real or personal property.
- (3) Personal lines, meaning property and liability insurance coverage sold to individuals and families for primarily noncommercial purposes.
- (4) Medicare supplement insurance and long-term care insurance, as a supplement to a license for the kinds of insurance listed in subdivision (1) of this subsection.

These lines of authority shall remain applicable for holders of these licenses until the Commissioner provides applicable replacement licenses under the new lines that will go into effect for new licenses on January 1, 2008. Replacement licenses shall grant authority comparable to the licenses being replaced.

(c1) Effective for licenses issued on or after January 1, 2008, an agent or broker may be licensed for the following kinds of insurance:

- (1) Accident and health or sickness. – Insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.
- (2) Casualty. – Insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property.
- (3) Limited line insurance.
- (4) Life. – Insurance coverage on human lives, including benefits in the event of death or dismemberment by accident and benefits for disability income.
- (5) Medicare supplement insurance and long-term care insurance, as a supplement to a license for the kinds of insurance listed in subdivision (1) of this subsection.
- (6) Personal lines. – Property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

- (7) Property. – Insurance coverage for the direct or consequential loss or damage to property of every kind.
 - (8) Variable life and variable annuity products. – Insurance coverage provided under variable life insurance contracts and variable annuities.
 - (9) Any other kind of insurance permitted under State laws or administrative rules.
- (d) A person holding a license or licenses for the kind or kinds of insurance specified in subsection (c1) of this section may sell, solicit, or negotiate only the kind or kinds of insurance for which that person is licensed.
- (e) A variable life and variable annuity products license authorizes a resident agent to sell, solicit, or negotiate variable contracts if the agent satisfies the Commissioner that the agent has met the FINRA requirements of the Secretary of State of North Carolina.
- (f) An accident and health or sickness license authorizes a resident agent to sell, solicit, or negotiate Medicare supplement and long-term care insurance policies as defined respectively in Articles 54 and 55 of this Chapter, provided that the licensee takes and passes a supplemental written examination for the insurance as provided in G.S. 58-33-30(e) and pays the supplemental registration fee provided in G.S. 58-33-125(c).
- (g) The Commissioner may issue one or more licenses without examination to individuals for limited lines insurance per qualifications and application procedures defined in the administrative rules.
- (h) No licensed agent, broker, or limited representative shall sell, solicit, or negotiate anywhere in the boundaries of this State, or receive or transmit an application or premium of insurance, for a company not licensed to do business in this State, except as provided in G.S. 58-28-5 and Article 21 of this Chapter.
- (i) No agent shall place a policy of insurance with any insurer unless the agent has a current appointment as agent for the insurer in accordance with G.S. 58-33-40 or has a valid temporary license issued in accordance with G.S. 58-33-66.
- (j) A business entity that sells, solicits, or negotiates insurance shall be licensed in accordance with G.S. 58-33-31(b). Every member of the partnership and every officer, director, stockholder, and employee of the business entity personally engaged in this State in selling, soliciting, or negotiating policies of insurance shall qualify as an individual licensee. A business entity license shall expire on March 31 of each year unless the business entity pays the renewal fee.
- (k) The license shall state the name and an identifying number of the licensee, date of issue, kind or kinds of insurance covered by the license, and any other information as the Commissioner deems to be proper.
- (l) A license issued to an agent authorizes him to act until his license is otherwise suspended or revoked. Upon the suspension or revocation of a license, the licensee or any person having possession of such license shall return it to the Commissioner.
- (m) A license of a broker, limited representative, adjuster, or motor vehicle damage appraiser shall be renewed on April 1 each year, and renewal fees shall be paid. The Commissioner is not required to print licenses for the purpose of renewing licenses. The Commissioner may establish for licenses "staggered" license renewal dates that will apportion renewals throughout each calendar year. If the system of staggered licensing is adopted, the Commissioner may extend the licensure period for some licensees. License renewal fees prescribed by G.S. 58-33-125 shall be prorated to the extent they are commensurate with extensions.
- (n) A license as an insurance producer is not required of the following:

- (1) An officer, director, or employee of an insurer or of an insurance producer, provided that the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this State, except for indirect receipt of proceeds of commissions in the form of salary, benefits, or distributions, and:
 - a. The officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance; or
 - b. The officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or
 - c. The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.
- (2) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass-marketed property and casualty insurance; where no commission is paid to the person for the service.
- (3) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts.
- (4) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation, or negotiation of insurance.
- (5) A person whose activities in this State are limited to advertising without the intent to solicit insurance in this State through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of this State, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this State.
- (6) A person who is not a resident of this State who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured

maintains its principal place of business and the contract of insurance insures risks located in that state.

- (7) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.
- (8) Licensed insurers authorized to write the kinds of insurance described in G.S. 58-7-15(1) through G.S. 58-7-15(3) that do business without the involvement of a licensed agent.
- (9) A person indirectly receiving proceeds of commissions as part of the transfer of insurance business or in the form of retirement or similar benefits.

(o) Nothing in this Article requires an insurer to obtain an insurance producer license. In this subsection, "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(p) An individual shall not simultaneously hold a property, casualty, or personal lines insurance license and an adjuster's license in this State. An individual who holds a property, casualty, or personal lines insurance license may apply for an adjuster license without having to take the adjuster examination in G.S. 58-33-30(e) if the individual applies for the adjuster license within 60 days after surrendering the property, casualty, or personal lines insurance license. An individual who holds an adjuster license may apply for a property and liability insurance license without having to take the property and liability insurance agent examination in G.S. 58-33-30(e) if the individual applies for the property, casualty, or personal lines insurance license within 60 days after surrendering the adjuster license. (2001-203, s. 6; 2007-507, s. 1; 2009-383, s. 1; 2009-566, ss. 2, 3.)